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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,134	04/06/2006	Jan Rytter	NKTR-46756	9300
116 7590 08/17/2010 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER HOOK, JAMES F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 08/17/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,134	RYTTER, JAN	
	Examiner	Art Unit	
	James F. Hook	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 4,7,12,13 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-11,14-24,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Denmark on October 31, 2003. It is noted, however, that applicant has not filed a certified copy of the Danish application as required by 35 U.S.C. 119(b).

It is acknowledged that this matter is being handled, and should be available in the application soon, but a full copy has not been received at this time.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 8-11, 14-24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glejbol in view of Greco and Braad. The reference to Glejbol discloses the recited flexible pipe for transporting fluid comprising a liner 2,3, an armoring layer 5,6, a water impermeable layer 10, an outer protective sheath formed from helically wound composite wires in two layers that are oppositely wound 7,8 where the composite wires are formed of bundles of fibers that are seen to be essentially a flattened tape shape, and an outer protective layer can also be provided 11, the bundles of fibers or chords form the protective layers and can include titanium, there is a binding material also provided with the protective layers, where the chords are formed from

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multiple threads, the binding material can be a thermoplastic polymer, and the method of forming the pipe is given. The reference to Glejbol discloses all of the recited structure with the exception of forming the bundles of fibers that can melt together locally to hold the two layers together and that the armoring layer is not chemically bonded to the inner liner or intermediate layers but is able to move. The reference to Greco discloses that it is old and well known in the art to form composite pipe layers of wound bundles of fibers to form yarns where the fibers used can include nylon, polyester, KEVLAR, wire or the like, where the term wire inherently would include metal wires since that is what is known in the art to be the material used to make wires, and polyethylene fibers can be wound in to allow for a second strand of different material which has a lower melting point and upon heating is softened which is considered melting and inherently would lead to the fibers of the crossing layers to locally be held together, and since the fibers are provided in a wound yarn it can be seen that areas will be untied together where the yarns do not meet, and such are formed around the periphery of the yarn, where the intersecting portions of fiber bundles will adhere to one another inherently as well. It would have been obvious to one skilled in the art to modify the fiber yarn protective layer of Glejbol by providing such with polyethylene fibers to allow such to tie the layers together by allowing for locally holding the yarn layers where the reinforcing yarns intersect one another due to the softening of the polyethylene fibers as suggested by Greco where such would insure the fiber layers stay in the proper place during assembly and use thereby making the hose inherently stronger. It is considered inherent that the combination of references would lead to a

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structure that inherently would allow for shear deformation between protective layers in the untied areas. The reference to Braad discloses the recited flexible pipe for transporting fluid comprising a liner 3, an armoring layer 4, an outer protective sheath formed from helically wound wires in two layers that are oppositely wound 5,6, and an outer protective layer can also be provided 7, and the method of forming the pipe is given, where the hose layers are non-bonded. It would have been obvious to one skilled in the art to form the pipe structure of Glejbol such that the layers are non-bonded as suggested by Braad, where such would inherently provide more flexibility if the layers could move with respect to one another, and it is taught that hoses of this structure are formed with layers non-bonded, which would include chemically non-bonded as well.

Response to Arguments

Applicant's arguments filed May 19, 2010 have been fully considered but they are not persuasive. With respect to the layers being non-bonded such is moot in light of the modification to the rejection above. With respect to Greco, it is not clear where in Greco it states that such is a gardening hose, and such is not being used to teach other structure of the hose, but merely being used to modify the reference to Glejbol which teaches all of the basic structure with the exception that reinforcing layers can be formed with locally connected portions in the reinforcement and since both Glejbol and Greco deal with reinforced hose structure such is considered analogous art in that one skilled in the art would look to any teaching of a reinforced hose to solve a problem in

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the art of hoses. With respect to the argument against the inherency that a melted reinforcement would inherently locally be held together, Greco sets forth in column 1, lines 53-63 that the reinforcement is heated to melting temperature which is clearly setting forth the reinforcement is heated more than just to softening, and for evidence of inherency that melted fibers will locally be held together see the references to Medell or Hsu from the previous office action. Therefore, this argument is not persuasive. With respect to the teaching of tied and untied portions of the protective layer, where the reinforcements cross one another they would in a melted state inherently be connected together and where they did not intersect they would not be connected together, and Greco teaches a separate string provided with the reinforcing layer which melts to hold the layers together which as set forth above inherently is used to connect the layers locally at the intersecting points.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Gerez, and Unno disclosing state of the art hoses.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/
Primary Examiner, Art Unit 3754

JFH